

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
MOHAMMED M. SIDDIQUI )

For Appellant: Mohammed M. Siddiqui, in pro. per.  
For Respondent: Crawford H. Thomas  
Chief Counsel  
James P. Corn  
Counsel

O P I N I O N

This appeal is made pursuant to section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of Mohammed M. Siddiqui for refund of personal income tax in the amount of \$129.08 for the year 1969.

The sole question for decision is whether appellant was entitled to the status of "head of household" for purposes of filing his 1969 California personal income tax return.

Appellant was a California resident during 1969. On December 24, 1969, his then wife, Roswitha, obtained an interlocutory judgment of divorce. The interlocutory decree provided that the divorce would not become final until one year from November 15, 1969, the date of service of the summons and complaint upon appellant.

On his California personal income tax return for 1969 appellant indicated his status as "single." Subsequently he filed an amended return in which he claimed to be an "unmarried head of household." Respondent denied appellant's refund claim on the ground that his marital status as of December 31, 1969, prevented him from filing as head of household for that year.

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Section 17042 of the Revenue. and Taxation Code  
provides :

For purposes of this part, an individual  
shall be considered a head of household if,  
and only if, such individual is not married  
at the close of his taxable year,...

The phrase "not married", as it is used here, is defined  
to include "[a]n individual who is legally separated from  
his spouse under a final decree of divorce or a decree of  
separate maintenance...." (Emphasis added.)" (Rev. & Tax,  
Code, § 17043, subd. (b).)

In 1969, it was the law in California that an  
interlocutory decree of divorce would become final only  
after **one year** had elapsed from the commencement of the  
divorce proceedings, i.e. from the date of service of  
copy of summons and complaint upon the defendant spouse.  
(Civ. Code, § 132) Effective January 1, 1970, that one-  
year waiting period was reduced to six months. (Civ.  
Code, § 4514.) Using either time period, appellant's  
divorce could not have become final until after December 31,  
1959. Consequently we agree with respondent that for  
purposes of section 17042 of the Revenue and Taxation Code,  
appellant was still married as of the close of his taxable  
year ended December 31, 1969, and he was therefore not  
entitled to claim head of household status in his 1969  
tax return. This conclusion is consistent with our  
decision in Appeal of J. Albert and Augusta F. Hutchinson,  
Cal. St. Bd. of Equal., August 5, 1968.

O \_ R \_ D \_ E \_ R

Pursuant to the views expressed in the opinion  
of the board on file in this proceeding, and good cause  
appearing therefor,

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED,. pursuant to section 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of Mohammed M. Siddiqui for refund of personal income tax in the amount of \$129.08 for the year 1969, be and the same is hereby sustained.

Done at Sacramento, California, this 14th day of September, 1972, by the State-Board of Equalization.

\_\_\_\_\_, Chairman  
*Stephen G. Brown*, Member  
*Robert J. Jensen*, Member  
*Paul H. Davis*, Member  
\_\_\_\_\_, Member

ATTEST:

*W. W. Rindge*, Secretary